

CHAPTER NO. 1049

HOUSE BILL NO. 3307

By Representative Kisber

Substituted for: Senate Bill No. 3305

By Senator Atchley and Mr. Speaker Wilder

AN ACT to amend Tennessee Code Annotated, 4-5-106; 4-29-223; 8-7-206; 8-50-501; 37-1-612; 38-6-102, 38-12-103, Title 39, Chapter 13, Parts 1, 5, and 7; 39-16-609; 39-17-432; Title 40; Title 41; and 55-50-501 relative to the transfer from the Department of Correction to the Board of Pardons of certain functions relating to probation services and the community correction grant program .

WHEREAS, currently the supervision of felony offenders released on parole is a duty and responsibility of the Board of Pardons, while the supervision of felony offenders on probation and the administration of the community corrections grant program are duties and responsibilities of the Department of Correction; and

WHEREAS, consolidation of these duties and responsibilities in a single board or agency will result in a more efficient and cost effective performance of such services; and

WHEREAS, it is appropriate that these duties and responsibilities be performed under the authority of the Board of Pardons, and that the board be renamed to reflect the assumption of these additional duties and responsibilities; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 4-5-106(c), is amended by deleting the words "Board of Pardons" and by substituting instead the words "Board of Probation and Parole".

SECTION 2. (a) Tennessee Code Annotated, Section 4-29-223(a), is amended by deleting item (36) in its entirety.

(b) Tennessee Code Annotated, Section 4-29-222(a), is amended by adding a new item thereto, as follows:

() Board of Probation and Parole, created by §§ 40-28-101 – 40-28-104;

SECTION 3. Tennessee Code Annotated, Section 8-7-206(4), is amended by deleting the words "Board of Pardons" and by substituting instead the words "Board of Probation and Parole".

SECTION 4. Tennessee Code Annotated, Section 8-50-501(a)(13), is amended by deleting the words "Board of Pardons and Pardons" and by substituting instead the words "Board of Probation and Parole".

SECTION 5. Tennessee Code Annotated, Section 37-1-612(c)(5), is amended by deleting the words and punctuation "probation counselor, parole officer, designated employee of the Department of Correction" and by substituting instead the words and punctuation "probation and parole officer, designated employee of the Department of Correction or Board of Probation and Parole".

SECTION 6. Tennessee Code Annotated, Section 38-6-102(b), is amended by deleting the words "Board of Parole" in the sixth sentence and by substituting instead the words "Board of Probation and Parole".

SECTION 7. Tennessee Code Annotated, Section 38-12-103, is amended by inserting the words "and parole" between the words "probation" and "officer" in the first sentence.

SECTION 8. Tennessee Code Annotated, Section 38-12-103, is further amended by deleting the words "Board of Parole" in the first sentence and by substituting instead the words "Board of Probation and Parole".

SECTION 9. Tennessee Code Annotated, Section 39-13-102(d), is amended by deleting the words and punctuation "probation officer, parole officer" in the third sentence and by substituting instead the words "probation and parole officer".

SECTION 10. Tennessee Code Annotated, Section 39-13-523(d), is amended by deleting the words "Board of Paroles" and by substituting instead the words "Board of Probation and Parole".

SECTION 11. Tennessee Code Annotated, Section 39-13-524(d)(1), is amended by deleting the words "Board of Paroles" in the first sentence and by substituting instead the words "Board of Probation and Parole".

SECTION 12. Tennessee Code Annotated, Section 39-13-703(2), is amended by deleting the words "Department of Correction" and by substituting instead the words "Board of Probation and Parole".

SECTION 13. Tennessee Code Annotated, Section 39-13-704(d)(2), is amended by inserting the words "and parole" between the words "probation" and "officers" in the third sentence.

SECTION 14. Tennessee Code Annotated, Section 39-13-706(b), is amended by deleting the words "Board of Paroles" in the first sentence and by substituting instead the words "Board of Probation and Parole".

SECTION 15. Tennessee Code Annotated, Section 39-16-609(b)(1), is amended by deleting the words "probation or parole officer" and by substituting instead the words "probation and parole officer".

SECTION 16. Tennessee Code Annotated, Section 39-17-432(e), is amended by deleting the words "Board of Paroles" and by substituting instead the words "Board of Probation and Parole".

SECTION 17. Tennessee Code Annotated, Section 40-15-104(a), is amended by deleting the words "Department of Correction" and substituting instead the words "Board of Probation and Parole".

SECTION 18. Tennessee Code Annotated, Section 40-15-104(a), is further amended by deleting the word "department" in the second sentence and by substituting instead the words "Board of Probation and Parole".

SECTION 19. Tennessee Code Annotated, Section 40-20-110(b)(1), is amended by deleting the words "Board of Paroles" and by substituting instead the words "Board of Probation and Parole".

SECTION 20. Tennessee Code Annotated, Title 40, Chapter 22, is amended by deleting the words "Board of Paroles" wherever they appear and by substituting instead the words "Board of Probation and Parole".

SECTION 21. Tennessee Code Annotated, Title 40, Chapter 22, is further amended by deleting the words "state parole officer" wherever they appear and by substituting instead the words "probation and parole officer".

SECTION 22. Tennessee Code Annotated, Section 40-27-104, is amended by deleting the words "Board of Paroles" and substituting instead the words "Board of Probation and Parole".

SECTION 23. Tennessee Code Annotated, Title 40, Chapter 28, is amended by deleting the words "parole officer" wherever they appear and substituting instead the words "probation and parole officer".

SECTION 24. Tennessee Code Annotated, Title 40, Chapter 28, is further amended by deleting the word "department" wherever it appears and by substituting instead the words "Board of Probation and Parole".

SECTION 25. Tennessee Code Annotated, Title 40, Chapter 28, is further amended by deleting the words "Director of Paroles" wherever they appear and by substituting instead the words "Director of Probation and Parole".

SECTION 26. Tennessee Code Annotated Section 40-28-104(a)(7) is amended by deleting the words "an effective parole program" and by substituting instead the words "effective probation and parole programs".

SECTION 27. Tennessee Code Annotated Section 40-28-104(a)(13) is amended by deleting the words "a staff attorney who is licensed" and by substituting instead the words "staff attorneys who are licensed".

SECTION 28. Tennessee Code Annotated Section 40-28-104(b)(3) is amended by deleting the subdivision in its entirety and renumbering subsequent subdivisions accordingly.

SECTION 29. Tennessee Code Annotated Section 40-28-106(d)(1) is amended by deleting the words "and the divisions of inmate records and probation of the Department of Correction".

SECTION 30. Tennessee Code Annotated Section 40-28-108(b) is amended by deleting the subsection in its entirety and substituting instead the following:

Nothing in this part shall be construed to diminish the authority of the courts to impose conditions of supervision on probationers under their jurisdiction pursuant to Tennessee Code Annotated Section 40-35-303(d).

SECTION 31. Tennessee Code Annotated Section 40-28-108(c) is amended by deleting the subsection in its entirety.

SECTION 32. Tennessee Code Annotated Section 40-28-109 is deleted in its entirety and substituting instead the following:

The Board of Probation and Parole shall appoint probation and parole officers who shall be supervised by the Director of Probation and Parole. The probation

and parole officers shall be placed within districts or such other locations as may be designated by the Executive Director and the Director of Probation and Parole, and shall devote their full time and capacities to the duties of their office.

SECTION 33. Tennessee Code Annotated Section 40-28-111(a) is amended by deleting the subsection in its entirety and by substituting instead the following:

The duties of such probation and parole officers shall be to supervise, investigate and check on the conduct, behavior and progress of parolees assigned to them for supervision and shall make to the board a report of such investigations, and shall perform such other duties and functions as the regulations of the board may direct.

SECTION 34. Tennessee Code Annotated Section 40-28-111(b) is further amended by deleting the subsection in its entirety and by substituting instead the following:

The duties of such probation and parole officers shall be to supervise and investigate the conduct and behavior of persons placed on probation by the courts or pursuant to Tennessee Code Annotated Section 40-35-501(a)(3) and to perform such other duties and functions as the regulations of the board may direct.

SECTION 35. Tennessee Code Annotated Section 40-28-114 is amended by deleting the words "district probation officer" and by substituting instead the words "probation and parole officer".

SECTION 36. Tennessee Code Annotated Section 40-28-119(a) is amended by deleting the subsection in its entirety and substituting instead the following language:

The board shall cause to be kept records which may include social, physical, mental, psychiatric and criminal information for every prisoner considered for or released, under its supervision. The board shall also cause to be kept the same records for every person placed on probation supervision. Such records shall contain reports of probation and parole officers with relation to such probationers and parolees.

SECTION 37. Tennessee Code Annotated Section 40-28-119(b) is further amended by adding the words "probationer and" before the word "parolee".

SECTION 38. Tennessee Code Annotated Section 40-28-203(a) is amended by deleting the subsection in its entirety and by renumbering subsequent sections accordingly.

SECTION 39. Tennessee Code Annotated Section 40-28-203(b) is amended by deleting the words "to the department or the board in the case of parolees" and by substituting instead the words "Board of Probation and Parole".

SECTION 40. Tennessee Code Annotated Section 40-28-204 is amended by deleting the words "to the Department of Correction or the Board of Paroles in the case of parolees" and by substituting instead the words "Board of Probation and Parole".

SECTION 41. Tennessee Code Annotated, Section 40-29-105(b)(1)(C), is amended by deleting the words "Board of Parole" and by substituting instead the words "Board of Probation and Parole".

SECTION 42. Tennessee Code Annotated, Title 40, Chapter 34, is amended by deleting the words "Board of Paroles" wherever they appear and by substituting instead the words "Board of Probation and Parole".

SECTION 43. Tennessee Code Annotated, Section 40-35-308(a), is amended by inserting the words "and parole" between the words "probation" and "officer".

SECTION 44. Tennessee Code Annotated, Title 40, Chapter 36, is amended by deleting the word "board" wherever it appears and by substituting instead the words "Local Community Corrections Advisory Board".

SECTION 45. Tennessee Code Annotated, Title 40, Chapter 36, is further amended by deleting the word "department" wherever it appears and by substituting instead the words "Board of Probation and Parole".

SECTION 46. Tennessee Code Annotated, Title 40, Chapter 36, is further amended by deleting the word "commissioner" wherever it appears and by substituting instead the words "Board of Probation and Parole".

SECTION 47. Tennessee Code Annotated, Section 40-36-102(10) is amended by deleting the subsection in its entirety, and renumbering subsequent subsections accordingly.

SECTION 48. Tennessee Code Annotated, Section 40-36-106(e)(5) is amended by deleting the words "probation officer" and substituting instead the words "probation and parole officer".

SECTION 49. Tennessee Code Annotated, Section 40-36-201(a)(6) is amended by deleting the subdivision in its entirety and substituting instead the following:

Two state probation and parole officers assigned to work in the county, nominated by the Board of Probation and Parole and confirmed by the County Legislative Body.

SECTION 50. Tennessee Code Annotated, Section 40-36-201(a)(7) is amended by deleting the subdivision in its entirety and renumbering the subsequent subdivisions accordingly.

SECTION 51. Tennessee Code Annotated, Section 40-36-201(b) is amended by deleting the words "the probation officer" in the second sentence and by substituting instead the words "one (1) of the probation and parole officers".

SECTION 52. Tennessee Code Annotated, Section 40-38-103, is amended by deleting the words "Board of Paroles" wherever they appear and by substituting instead the words "Board of Probation and Parole".

SECTION 53. Tennessee Code Annotated, Section 40-39-103(a)(5), is amended by deleting the words and punctuation "parole officer, probation officer" and by substituting instead the words "probation and parole officer".

SECTION 54. Tennessee Code Annotated, Section 41-1-123(a), is amended by deleting the words "Board of Paroles" in the first sentence and by substituting instead the words "Board of Probation and Parole".

SECTION 55. Tennessee Code Annotated, Title 41, Chapter 1, Part 5, is amended by deleting the words "Board of Paroles" wherever they appear and by substituting instead the words "Board of Probation and Parole".

SECTION 56. Tennessee Code Annotated Section 41-9-101 is amended by adding the words "and/or parolee" after the word "probationer" wherever it appears.

SECTION 57. Tennessee Code Annotated Section 41-9-101(a) is amended by deleting the words "Commissioner of Correction" and by substituting instead the words "Board of Probation and Parole".

SECTION 58. Tennessee Code Annotated Section 41-9-101(c)(1) is amended by adding the words "and/or parolee" after the word "probationer".

SECTION 59. Tennessee Code Annotated Section 41-9-101(c)(3) is amended by adding the words "and/or parolees" after the word "probationers".

SECTION 60. Tennessee Code Annotated Section 41-9-101(c)(5) is amended by deleting the word "commissioner" and by substituting instead of the word "Board of Probation and Parole".

SECTION 61. Tennessee Code Annotated Section 41-9-102 (e) is amended by deleting the words "Director of Probation" and by substituting instead the words "Director of Probation and Parole".

SECTION 62. Tennessee Code Annotated, Section 41-21-225, is amended by inserting the words "probation and" before the words "parole officer".

SECTION 63. Tennessee Code Annotated, Section 41-21-238(c), is amended by deleting the words "Board of Paroles" and by substituting instead the words "Board of Probation and Parole".

SECTION 64. Tennessee Code Annotated, Section 55-50-501(a)(1), is amended by inserting the words "probation and" after the word "person's" and before the words "parole officer" in the third sentence.

SECTION 65. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 66. Title 40, Chapter 28 is further amended by deleting the words "Board of Paroles" wherever they appear throughout the chapter and by substituting instead the words, "Boards of Probation and Parole".

SECTION 67. Tennessee Code Annotated, Section 40-28-104, is amended by adding the following as new subdivision (a)(1) and renumbering subsequent subdivisions accordingly:

(1) The authority to select and recommend to the appropriate state officials the employment or transfer of all personnel required for the operation of the board, except, however, the initial transfer of any career service employee pursuant to the merger of probation and parole field services and community corrections pursuant to this chapter shall not result in any impairment, interruption or diminution of employee rights, salary, benefits, leave accumulation or employment. The Commissioner of Personnel is authorized to determine if there has been any impairment of rights, salary, benefits, leave accumulation or

employment as a result of the initial transfer. Any career service employee may seek redress of any such determination through a request for declaratory order by the Commissioner of Personnel pursuant to Tennessee Code Annotated, Section 4-5-223.

SECTION 68. This act shall take effect upon becoming a law, the public welfare requiring it. The implementation of this act shall take effect July 1, 1999, provided, however, that provisions of this act may be implemented prior to July 1, 1999, upon the request of the Tennessee Board of Probation and Parole through its Chairman, with the approval of the Commissioner of Personnel and the Commissioner of Finance and Administration, with review and comment by the Select Oversight Committee on Correction.

PASSED: April 29, 1998



**JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES**



**JOHN S. WILDER
SPEAKER OF THE SENATE**

APPROVED this 18th day of May 1998



DON SUNDQUIST, GOVERNOR